

**Town of Eatonville
PLANNING COMMISSION MEETING
MONDAY 7:00 PM, JANUARY 2, 2007
COMMUNITY CENTER
305 CENTER STREET WEST**

MSC- Motion, Second and Carried.

Chairman Lind called the meeting to order at 7:00PM .

Commissioners Present: Lind, Valentine, Schaub, Frink, Beach was excused.

Town Staff Present: Mayor Smallwood, Nick Bond, Mart Kask, Town Attorney- Ed Hudson and Karen Bennett.

Approval of agenda: MSC

Approval of minutes: MSC November 20, 2006
MSC December 4, 2006 w/correction.
MSC December 18, 2006

Communications and Announcements:

From Commissioners, Town Officials, other government bodies:

Mayor Smallwood introduced Ed Hudson, Town Attorney.

Lind acknowledgement of Planning Commission members.

Mart Kask the issue is incremental safety provided to the flying aircraft operator and to the public on the ground vs the property rights of the people at and around the airport. But before we get much further I think we need to make a point about talking about the level of activity around the airport. Our airport is a, what can be classified as a recreational type of airport because the flights in and out of the airport by the property owners that have on the site aircraft whether they are with their houses or in their hangers. Those local flights are made primarily for the purpose of recreation. If we look at the state statistics that the State of Washington Aviation Division publishes they list that at the Eatonville Airport or Swanson Field there is less than one operation per day. Keep that in mind that we are a very low level activity airport. There are other flights that come in. Estimate is that there were approximately 15 by the military and 2,000 per year that were made by other airplanes coming in and out of the airport and those are primarily flight instructors that are flying their students to Eatonville in order to practice landing and take offs. Because it is a low activity airport and it is safe for them to operate and train their student pilots in this area. The critical number is that we have 22 aircraft at the airport and 20 of them are air worthy. And those 20 aircrafts make about less than one operation take off and landing a day. The issue that the Planning Commission and the Town Council has considered is how to balance that

increment of safety vs the property rights that would have to be eliminated for some and curtailed for others and what is the proper balance of what is a compromise. The state law requires that municipalities and counties that have airports in their jurisdiction whether they be privately owned or publicly owned have to address the incompatible land use issues. That means that the jurisdictions that have airports in their jurisdiction must adopt development regulations that identify incompatible land uses at and around the airports. The state law states that the airports are classified, in general, an essential public facility and has to be so listed in the comprehensive plan. That is somewhat how the question because we have listed Eatonville Airport as an essential public facility but Pierce County has not listed Thun Field as an essential public facility. That calls into question whether that is a serious requirement or just a requirement. The state law is very clear that once you have an airport in your facility in your jurisdiction you must address the issues of incompatible land uses. Incompatible land uses means that in addition to identifying those uses that are contrary to the operation and interest of the airport you also have to address the height limitations. The state has given us over a period of a year or so considerable guidance in this area and they have stated that our airport must adopt the regulations that prohibit the penetration of what is called Federal Aviation Height Limitations. They are referred to as FAR77 regulations. The state aviation representative came to our town council meeting at the last meeting of the town council prior to the adoption of the development regulations and laid down a number policies that he wanted to have included in our Comprehensive Plan. I recommended to the Town Council that those not be adopted because we had taken care of all the loose ends but the Town Council thought that they were not harmful and decided to include them. And that has caused a problem for us because the Comprehensive Plan Policy is in conflict with the development regulation and that is what the State Hearing Board has found and so ruled. The state has also recommended that in addition to the height regulations that we must adopt that prohibit penetration of the federal height regulation. We also must adopt a development regulations that limit or curtail or restrict certain types of development particularly at the ends of the runway. Those are no residential development as such. So we have been made clear and the state has come forward and saying that our regulations must adopt height regulations that prohibit penetration of the federal height limits and also we need to strengthen or tidy up our identification of incompatible uses by knocking out any reference to residential development. The Town Council looked at those that the state proposed and looked at our own situation and being familiar with the airport and airport operations they struck the compromise and the compromise is shown. . .*stepped away from the microphone to explain the visuals brought.* . .but that did not satisfy everyone in the municipality and we had two citizens that feel the ordinance 2006-6 which covered the airport activities through the Central Puget Sound Growth Hearings Board. The hearings board conducted hearings on it, various legal briefs were filed by both parties, the people that filed the complain and the defendant, the municipality and there was an oral hearing before the hearing board and after that the hearings board rendered it's decision. Decision is in it's entirety in your packet, if you'd like to read it. In summary what the decision of the hearings board was that the development regulations do not implement the Comprehensive Plan. That is an issues that needs to be settled. The Comprehensive Plan states that the municipality should consider adopting regulations that prohibit the penetration of the Federal Height Regulations and the critical words are that the town should adopt regulations that prohibit the penetration. The town's position was that this policy is suggestive and not directive. Its then discretion granted to the municipality to determine how strongly they want follow through on that particular policy. The position that the municipality put forth

before the hearing board was this that this policy is suggestive and not directive. Had it been directive the policy would have read that the town must adopt development regulations that penetrate the height restriction of the Federal Government. But that was not the language that went into the Comprehensive Plan and so when the development regulations were adopted as the bottom one shown on that graph it differed from the Federal FAR77 regulations. The board ruled that our development regulations do not implement the policy as dated in the Comprehensive Plan. Another statement by the hearings board was that the development regulations are internally inconsistent and incompatible land uses along the runway and the ends of the runway need to be more restrictive, there to loose. The height restriction of the FAR77 Federal Regulations should be put in place that prohibit penetration of those lines that are shown on that middle map. This was the ruling of the hearings board and that was handed down on December 18, 2006. Since that time we have gotten the ruling from the Federal Aviation Administration, it came as a letter from the regional office the Federal Aviation Administration to the applicant which the applicant is the Aviator Heights developer. The letter from the FAA came as a result of an application or a notice that the developer filed with the Federal Aviation Administration. The FAR77 regulations as we know them come from the Federal Aviation Administration and they are a rule that requires filing a report when someone intends to construct something that either penetrates or proposes to penetrate the federal height regulations. That application form was filed by the developer it was sent to the Federal Aviation Administration and a ruling came back and the letter stated that the highest developmental point in the Aviator Heights subdivision penetrates the federal aviation height regulation by 17 feet. The ruling by FAA letter said that in their opinion that does not generate a height hazard. In other words put a passing letter into the file regarding the subdivision. That letter came after the hearings board had conducted their final hearing and that information never got entered into the record of the hearings board. So the conclusion is that we have a hearings board ruling that states that we are out of compliance with the Growth Management Act that are development regulations do not implement the Comprehensive Plan that are regulations are inconsistent internally and incompatible land uses must be strengthened around and at the ends of the runway. They invalidated our ordinance 2006-6 and stated that the town must come back to the hearings board by, or least file a paper on 16th of March stating how the town has gone about correcting these deficiencies as identified by the hearings board. The options that are before the town first before the Planning Commission and second before the Town Council. . .

Lind Mr. Kask, let me interrupt for a moment. You are getting into your memo dated January the 2nd, correct, so those who have a copy of that memo if they wish to refer to it as he continue from here one you might want to do that.

Kask options are that we can adopt these state proposed regulations which means that we will adopt FAR77 height regulations and modify that at the states request by stating that no structures shall penetrate height regulation. Again I want to point out that's not the federal regulation. Federal regulation only requires a reporting when something goes above the height regulation. A good example is when the town built the new water tank by where Bruce Rath's house is. That water tank exceeds the FAR77 height regulations and the town filed a form with the Federal Aviation Administration and the Federal Aviation Administration, I believe, stated that they are going to mark that on their aviation maps as a water tank and that was the end of it. The Federal Aviation Administration does not

approve or disapprove applications. They can file a complaint in the federal court if they feel the air safety is severely compromised and they have done so in various parts of the country. Mostly they come back and tell the municipality that this project has an impact on the air traffic operations and either the structure should be painted white and red or red beacons should be placed on it or some safety measure is usually suggested. In this instance where the Aviator Heights applicant the developer filed a proposal or application or filed a notice with the Federal Aviation Administration the letter came back and said that that penetration of 17 feet posed no serious safety hazard or no safety hazard to the flying public. If we were to propose the state proposed regulations we would adopt the FAR77 federal regulations and further modify it by saying it shall not be penetrated. What that does is render the properties along the airport, the current houses incompatible uses or non-conforming uses and that means that the home owner will have difficulty in getting home owners insurance and when it comes to the sale of that property banks are reluctant to mortgage sales that are non-conforming uses. They might find themselves in a position where they are unable to sell their property through a loan process.

Lind have you calculated how far back from the center line under no penetration of FAR77 a twenty foot house would have to be before it could built.

Kask I did a calculation for twenty eight foot out because that's the standard limit for a single family residential and it's in my report, I believe.

Lind three hundred twenty feet so that's another two hundred feet back from where we are talking about?

Kask yes, it's from the center line of the runway. There are a number of lots that would, totally, be un-developable for that reason. And so the adoption of the state proposed regulations has a sever impact on the community by first of all those structures that already exist would be classified as non-conforming uses and those lots that are close to the runway will not be able to be developed because any structure you built on there would have to be under the Federal Aviation Administration height restriction and you can't build a house that is 6 feet high. Those lots are kind of shallow and there fore you can't go farther back to build a house. Some might, some might not. They would be restricted. The other option is to amend the Comprehensive Plan to take out the certain policies that conflict with the development regulations and also make amendments to the development regulations. This is my recommendation that we do that. We will not gain anything by filing an appeal with the State Hearings Board, I believe that they are very firm in their position and new information would not make significant impact on them so that they would change their position. My recommendation is instead of spending time in that direction let's go right at it and correct what needs to be corrected and bring our Comprehensive Plan and Development Regulations that come together like this. That there are no off sets. And what we can do is we will abandon our development height regulation the bottom one on the list there and go to the FAR77 regulation and we will skip the state mandate that no structure shall penetrate we will adopt the federal regulations lock stock and barrel and what that says that the FAR regulations is only a reporting regulation and structures can be build that penetrate the FAR surfaces like the lot on the Aviator Heights regulations that the FAA has already ruled to be in bounds and we can build other structures under that regulation and we have met the height regulation requirements. Again, I want to emphasize that we will not

adopt the wording proposed by the state that prohibits penetration. We will be able to penetrate but those will have to be filed, notices with the FAA. FAA will come back and if the problems are serious the Town Council and Planning Commission can then deal with those issues. There are two other options and one is appeal to the Pierce County Superior Court and we have Ed Hudson our Town Attorney with us and he may want to speak to that and the other is to get out of the airport business. That needs some comment. The property ownership as I have indicated is in three pieces and the what is clear is that the town owns the most northern piece. The center piece is somebody in question. If the town wants to get out of the airport business they can sell that property to a property owner and there is no longer a municipal airport it would be privately owned airport. Privately owned airport, I would think, would be a corporation. They would then pay property taxes on the property and they would take over the current insurance premium that the town pays for liability insurance. They would have to take care of the maintenance and the operations at the airport. That does not do away with the regulations the height regulations and the incompatible development regulations still apply because the state law requires that whether airport is privately owned or municipality owned these regulations still have to be addressed. The regulations stay in place. I need to point out that the property is owned to the south by Hal Burlingame and possible the middle piece is owned by Hal Burlingame. If Hal Burlingame estate turns over to his heirs or successors they may not be, necessarily, interested in maintaining the airport. If the decision goes by the new successors of that property to sell the property then nothing can stop that individual from doing that and the airport would go out of business. The proposed action that I am suggesting is that the Planning Commission roll up their sleeves and go to work and tackle the Comprehensive Plan Amendment and Development Regulations Amendments at the same time. The March 16th date is not far away and we need to utilize every day we have between now and that due date and get as much done as we can. I can't guarantee that we will be fully in compliance because keep in mind that when we adopt or adopt amendments to the Comprehensive Plan we need to submit those to the Washington State Trade Commerce and Economic Development for a 60 day review and they don't have to take the 60 days to review it they can do it faster and we can ask them to do that but never the less we may not be exactly on the date of March 16th. Our attorney can appeal and ask for a extension. I'm quite sure that we have a good chance of being granted that if we can demonstrate that we are busy at work and under best circumstances we will not be able to make that dead line. So there is a good chance that we will be able to meet the timing requirement and extend it if necessary. Before we leave today I would like to ask the Planning Commission whether they want to adopt the state proposed regulations. Whether they want to proceed to amend the Comprehensive Plan and Development Regulations or appeal to the Pierce County Superior Court or get out of the airport business. There are two collateral issues that I need to bring to your attention. One is that the we are undertaking, we are in the midst of a downtown revitalization study and those planning funds come from the Federal Government and come from the Federal Department of Transportation and in order to file a follow up grant which we intend to do for preliminary engineering and environmental work we need to be able to file a grant application sometime in March. In order to do that, in order to be a good competitive position we either have to clear that airport issue off the books or be able to demonstrate to the Puget Sound Regional Council who would be granting us the extension of those funds that we have made significant progress resolving this hearings board issue as it is before us now. Also, keep in mind that the town is in the midst of updating the airport master plan. The airport master plan is required in order to get capital grant money for the

airport and the town has identified that they would like to put a seal coat on the runway to protect it from weathering and that necessitated a precondition that the master plan be updated. That's on going and that master plan scope of work calls for assessment of the land use considerations and height considerations. Whatever we do here we need to coordinate our efforts with what's going on at the master plan update so that we don't have two documents, one coming out of the Planning Commission and the town council as an ordinance saying one thing and then the airport master plan leading us in a different direction. Those two lateral issues we have to keep an eye on this thing while we are doing our work and if it is the decision of the Planning Commission that we should proceed in certain order and the mayor orders me to the work I am ready to step up and get this thing done as quick as possible.

Lind so you would like a motion, ideally, to adopt your item two on your memo, is that correct?

Kask that is correct.

Lind and once that is adopted then you would ask the chair to reconstitute the airport owners and pilots and subcommittee from the Planning Commission as part of that. Is that correct?

Kask that is correct. That committee was convened when we did the ordinance 2006-6. That committee made the recommendation that was adopted by the Planning Commission and later by the Town Council. That composition of that committee is spelled out in the State Statute and that includes the representative from the Washington State Department of Transportation Aviation Division. The recommendation contains the procedural part that we need to have full consultation with these individuals to carry this forward and carry that recommendation to the Planning Commission and then to Town Council.

Lind I think I will let Mr. Hudson talk before we move on the matter, but the staff's recommendation is item two and if we adopt that item two in there then the chair will appoint a subcommittee of this committee and constitute a airport owners and etc. committee on it. So Mr. Hudson will you continue from your point of view as an attorney on this ruling. Where we are at and where we might go.

Ed Hudson what I would like to do is only mention a couple of things and only one item specifically that I think needs some emphasis that Mr. Kask didn't mention, at least as much I would as an attorney. Then rather than going back through many of the things that he has already said, possibly take questions. The opinion from the Growth Management Board, I think, when you read it closely makes a case that if you want to succeed going forward again with a similar alternative to just endorsing the FAR77 they want to see some opinion from an airport expert who will support the town's position in that regard. I know at least in some conversations it's possible that this could fit into the scope of work that being done on the master plan for the airport. I think that is something that we have to consider as we move forward. Other than that Mart Kask has hit all the key points so I would take questions if you want some special refinement of any comment.

Frink what if we did away with the airport? I'm just being the devils advocate here, but what if we did away with the airport. . .what is our take on that?

Hudson the city of Tacoma is considering, exactly what you are proposing, in fact they claim they have two buyers. But you are still going to have the government agencies are still going to be working with the airport plan, you are just going to be out of the posture of being an owner, the operations and all the safety issues and whatever will go with whoever is running the airport.

Frink so the owners on the airport they want to have a say of what is going on because they are there for a reason. They like the airport they want the airport to be there.

Hudson I think there some classic battles around the United States if you sort of watch what is going on with airports. There is a lot of pressure now to construct housing in urban zones as part of national effort in some ways to deal with ecology, carbon dioxide emissions. Some of the airports are in close proximity to some of these urban centers and there is a lot of land associated with some of these airports in some locations are good areas for development other than airports. You can track where there is a lot of debate similar to what is going on here in the town about what should be the long range vision. I was talking to Mr. Bond on the phone today, who knows in Eatonville's case for example what will happen if the development outside the park entrance becomes a tourist attraction. Would that put new pressures of growth around the airport, similar to what you see in a town I am familiar with the town of Twisp over in the Methow Valley which really doesn't have many more people than I think you find in Eatonville. The fact is that over there it's become a recreational center for a variety of different sports including fishing. There are fly ins over there for people that just want to participate in those activities. You may find the same effect occurring here with Mt. Rainier.

Frink my opinion is I see the value of a airport I was just mainly wanting to find the answer what if we didn't address this and we didn't have to deal with this. But I can see and I know that what it can bring to this municipality a real advantage. What I am hearing you say is that we really have an issue of the FAR77, the height, that's a big issue and the houses have already been built and we have an alternative of bulldozing them down or readjusting. That's what we are faced with and that is the amendment that we would discuss and that is an amendment that you think that we can get through the board. These people have been here for years and with the new development, I don't know exactly what is on the other side I haven't been up there to look but the height of the houses coming in but they want a variance there and I saw maybe there could be a Rambler or a one story house, that would help. If that is what we need to address and that is the big issue and the main thing and I think we really need to discuss it and move forward on it and get something done. Just wanted your opinion as Town Attorney and Mr. Kask of what if we didn't have an airport.

Hudson let me comment again on the need of that expert because what the hearings board has made clear in it's opinion is that it isn't entirely a question of trading off the height over keeping the older buildings. There is a safety issue here. I think that the board is looking for the expert to address that because without an expert addressing that issue then we are faced with comments from the Department of Transportation indicating you need to adopt the FAR exactly for safety purposes. Their being the only expert that is making this comment.

So again I just want to point out the real need that we have to bring that issue of safety into the master planning process. One of the things that the towns and cities look at as to what is the budget. Is it like running recreational center that you charge \$2.00 per entry per person but it doesn't cover the operating aspects or the maintenance aspects of it so you subsidize with tax payer money. Sometimes that will happen also with airports and everyone is looking for an airport that is profitable so that they don't have that issue. Some times that issue will surface and it will eat away and eat away and eventually ends up being resolved in some process, one of them might be to just sell the airport so that the profitability of the airport is not born by the town.

Mike Jefferies, 133 Mashell Avenue, Eatonville, WA

It seems like a lot of the early discussion dealing with Aviator Height was who had the authority to mandate things for the airport. Everybody kept saying well this person or this agency has the right to suggest but they don't have the authority. My question is, essentially, does the hearing board have the authority to mandate changes to our comprehensive plan that relate to the airport and it seems like the suggestion to is to just side step the hearings board or is the hearings board going to come back and haunt you?

Hudson the hearings board is not in the business of being the Town Council or County Government or whatever. Their job is to make sure that the comprehensive plan is, first of all, consistent with the State Comprehensive Plan and they are also looking at the surrounding jurisdictions here in Pierce County, their comprehensive plan. Secondly, they are looking to see that the ordinances, the implementing features of a comprehensive plan often people will looking at the zoning regulations as a good example of a implementing ordinance and in this case it is 2006-6. Are the workings of the regulations or that type of ordinance, regulation ordinance are they consistent with the statements that are in the comprehensive plan by the town that adopted both of those and what the hearings board is saying here is no they are not. In several instances they have indicated there is these inconsistencies that Mr. Kask talked about. One of the big problems is that one sentence in the policy that says that we'll encourage to prohibit penetrations above FAR77 heights. They are interpreting is that is requiring at all stages when there is a penetration being considered that it just can't penetrate. You can't have a variance if you have stated in your policy that you are going to prohibit those penetrations. That is a major inconsistency that has to be addressed in order to meet the mandate that we now have from the hearings board. I mentioned again the expert they do not legislate but they are saying that if you are going to claim that your height proposals are safety oriented they are saying that you should have expert testimony before them to support that position at the time that the Town Council passes that ordinance. They are suggesting that if we go up without that expert advise they may consider invalidating it again no matter how we go about resolving the inconsistency for a failure to support a safety issue with expert advise.

Mike Jefferies they came back with specific suggestions such as you can't have residents within 2,500 feet of the end of the runway was one of them. If you say we are going to go a different route you amend the comprehensive plan and you come back without that 2,500 feet in there can't they just come back and say well we are going to invalidate your comprehensive plan again? I just seems like they could.

Hudson one of the aspects of these opinions you really do have to spend some time with them but I think again what their saying is that the experts that have been speaking to the town are all outside of the town and specifically they are talking about the State Highway Department section on aviation. They are saying that the State Highway Department has come in and their indicating that you should not have residence in those areas. Then the board is really going on to say the town does not have any expert to say otherwise so how can we give credibility to an issue as important as this when it requires an expert to speak out. That is why I am saying that the town has to butyric it's decisions on policy there with some experts rather than going at hock necessarily each time through an FAA report. Now it's interesting in Twisp they allow residential housing right up at the runway but it is the form of a motel. So because they got people checking in flying in want to stay in the valley and fly fish for a few days and then they are out of there. The issue isn't residential so much it's just a question of whether you need aviation related or not and if you read carefully the information that the State Highway Department provided the only thing that I can see that they focused in on was some airports find that people will not tolerate the noise of the aircraft. So you get an incompatibility but when you have as few airplane take offs and landings as you do here I don't think that is a big issue and I think it is possible that the Town Council here would say that some non-aviation housing is actually supportive of the airport because the people who buy these homes in and around the airport are people who buy it to be voyeurs of airport traffic and what have you and are really supportive and the town may need that to maintain the vitality of this small size of airport. An expert who has been around the country and is advised and seen other airports can give more weight to what I am just suggesting at this point.

Rich Williams, 300 Center Street, Eatonville, WA

The questions that I have about this is if the city adopts anything other than FAR77 and I happen to be living in one of those red homes on your map and I'm involved in an accident, a airplane hits my house, kills my wife one of my children, whatever, what is the liability of the city if they adopt anything other than FAR77? Is the city liable or. . .

Hudson this gets me back also and another reason for the expert to come in. The FAA process, as Mr. Kask pointed out, is to look at each of these issues and determine if there is a safety issue at that given airport. It certainly lessens the exposure of the town and everybody else if you have sheet back saying there was no safety issue at the time or whatever concerns they had about safety where address through the recommendations that the FAA provided. We all know that there are towns through out the United States that do not, anywhere near, come close to 100% compatible so the issues there but that is the reason why we have insurance companies, reason for self insured. A lot would depend on the particular accident, in other words, it would have to be probably have to be a collision with the house to even raise an issue of some other feature you know it wouldn't be an issue.

Rich Williams if you were to adopt something other than FAR77 which is logical but there are people in this town that don't think that then would the people who live in those red houses be willing to sign a waiver saying that they live there at their own risk. And there fore relieve the city of any liability.

Hudson at this point all these things need to be considered. I'm familiar with, and you maybe to, Salmon Beach in Tacoma has a housing development that goes clear back to

almost pre Tacoma days down at the bottom of one of the worst hills in town for landslides and one of the things that did occur there several years ago is they started a process of getting those waivers signed by everybody and this encouraged the City of Tacoma to put in water into one section of the hillside. So they are useful in certain circumstances but you do have to build a culture that is willing to do that. You can do, again going back to the Methow Valley which is not a safety issue, it is in some ways, they have this extensive system of cross country trails and it is amazing you can do this in this world but they did that a lot with easements and getting concerns about safety. I know one of the concerns there is people that might be on the trail and then breaking into houses and sort of stuff so you get that. They have managed to work through that as a community and it's one of the things in a small town once everyone gets on board to protect an asset or to do something with it a lot of wonderful things can happen.

Valentine read from RCW 36.70A. Intent--Finding--1997 c429;20(3)

Hudson I am going to address it today because I can see this issue is going to arise again. I want to emphasize again the reference to the expert. If safety was not a factor here we would not have much of a problem. It is because of safety it's comparable if you have a heart problem would you rather go to somebody that is a doctor that knows something about heart work or would you rather go down to the guy down at the hardware store for the advise even though he may have had a heart attack last year as to who was going to do the work on you and that sort of thing. The board is basically has said and they are right on this point, I think, that the town can't have the weight that the statute says to make all of these policy decisions. If it doesn't cover the safety issue with an expert who says this will work, airplanes can deal with this. Once we get over that hurdle then we have a lot of leeway as long as we are consistent.

Frink where are we going to find our expert?

Bond last year we received a grant from the State Department of Transportation Aviation Division which was for the creation of an airport layout plan. We have hired a consultant with HDR Engineering who is currently doing the ground work for creating this plan and we are going to be forming a sub-committee at the airport very soon to discuss planning objectives and future goals at the airport and it's my hope that this consultant can also assist us in coming to a solution to this current situation. *Individual asked questions away from microphone.* . . .it is going to be really tight. I talked to the consultant right before the holiday and she wants to meet us sometime middle of January and get this steering committee put together and come and visit the site, meet the steering committee, go back and put together a set of objectives and then bring it back to the steering committee to round everything out. I would anticipate that the plan is going to be done probably around the dead line, give or take a month.

Lind Mr. Bond, the steering committee that you are talking about is separate from the sub-committee that we had talked about with the airport owners, etc. Is that correct or incorrect?

Bond correct. I contracted that airport manager and he put together a group of people.

Lind I have been a big support of the airport for a very long time and I listen to Mr. Kask and reading all that's here I'm not willing to give up on the airport. As I understand it option two allows up the opportunity to go forward with it and if going forward with that we find that there is a problem we can always move to option one, three or four out of that one. Is that correct Mr. Kask? So given my support in the past for the airport that would be my option to go forward on it. And I think that brings us to the point where Mr. Kask would like us by motion and vote to adopt one of the four options in his memo so I am looking for a motion to adopt. I would like option two but, who would like to make a motion here.

Schaub I would like to hear what Nick thinks.

Bond there are several options before us and I think that the option to adopt a regulation as recommended by the State Aviation Department which would prohibit penetration of FAR77 is unacceptable and unfair to the land owners at the airport. I think option B, I don't have the list in front of me at the moment, which Mart has advocated is a good option and given the way that the Federal Aviation guidelines work where you have to notify the FAA but they generally the approve or attach conditions to with approval of the majority of things that come before them. I think that is acceptable but it is going to be difficult given the time frames that we have to work with. I think the airport as far as it's value to the community is going to have a significant future value. It's under utilized now but in the future I would expect that it is going to be very valuable and it is important for the town to control it to make it available to the public. I would hate to see it become a private airport because I think it would become more exclusive and who knows what our future needs are going to be. I would advocate option B.

Lind it's option two in his memo. I am looking for a motion here.

Valentine so moved.

Lind option two?

Valentine option two.

Lind and a second? Any discussion?

Schaub I have a question. We have several concerns on what is going on out there at the airport. Aviator Heights, we have concerns with people with existing homes, existing heights. Now all questions that have come up can be addressed under item two?

Bond yes. As I understand it, option two would not have any kind of impact on existing buildings at the airport. New buildings would be required to notify the FAA at the time of building permit application or at the time, any construction takes place. It would not occur at the time at which you make a plat application and it is not going to effect the existing structures out there.

Mike Jefferies the only question is how would this affect Aviator Heights if you go with option two. That's the main issue that is going on out there now.

Lind I think when we talk about that we have got Aviator Heights in a antenatal way on the agenda under letters of appeal and etc. And I think maybe we will talk about that at that time if that is o.k. with Mr. Jefferies. Unless Mr. Hudson wants to make a comment at this moment.

Hudson it's a comment that is address by the board and I guess that's something that Mr. Kask or myself brought out. The board authority even though it invalidated the ordinance it did so only prospectively. Aviator Heights had it's application for it's plat in prior to the invalidation. They are the only ones. There is no new person now could come in because it is an invalid ordinance an apply. But Aviator Heights has all rights under the ordinance to move forward. Issues there I think that will have to be worked out but hopefully that answers that question. The movement on two really doesn't affect Aviator Heights. Aviator Heights is dealing with the ordinance 2006-6 and that is what they filed under. So that ordinance 6 will continue to apply to that application.

Arlen Paranto, 210 Orchard Avenue South, Eatonville, WA

I heard comments earlier from Mr. Kask that the current property owners have a lot to loose if they have to follow the more strict rules of FAR77 provides and as I understand it the current property owners are already grandfathered in. They won't loose any right and anything like that, their insurances won't go up. It will be the same as it always has been. That is my understanding of that situation. I think the airport is a very important asset to the Town of Eatonville and I hope means can be found to resolve all of these problems so that the airport can continue as a airport and protect the citizens.

Kask the houses along the runway as they exist today having built and shown in red under the 2006-6 ordinance had no restrictions placed on those homes. They were in conformance with the municipal law. You can look at the bottom graph there they do not penetrate the height regulations as was adopted as part of 2006-6. Now that the hearings board has invalidated the ordinance and what that means is that the you knock out the ordinance and you go back to something that was prior to the development of that 2006-6. And so the questions is what is it? We go back to the 1994 zoning code that created a aerospace zone and under the aerospace zone which invalidation brings into life because what the invalidated order from the hearings boards also said that it invalidated a deletion and the deletion was when the 2006-6 was adopted it deleted the old ordinance that written in 2004. The council the hearings board action by invalidating the 2006-6 brings us back to and brings to life the old ordinance that existed before as a result, of that deletion. Under that ordinance, the existing structures along the runway are not penalized or restricted. They are fully in conformance with the rules and regulations and the zoning code as it exists today. If we were to adopt FAR77 regulations, they also would not be in violation of any regulation because the FAR77 federal regulations requires notification of new construction. They already exist, anything new would have to file a notice with the Federal Aviation Administration if there is an intent to construction something in the area that penetrates FAR77 regulations. As Aviator Heights people did with there plat. And so the existing homes as they existed under 2006-6 where not ruled incompatible uses with the invalidation of the 2006-6 and bring back the old ordinance they are not non-conforming uses and if we were to proceed and adopt federal regulations, FAR77 regulations they would not be thrown into a classification of non-conforming uses they would continue as a fully permitted uses as they exist today.

Bond a side note on that though is that as the Growth Management Hearings Board found if we adopt the FAR77 regulations as the State of Washington Department of Transportation Aviation Division wants us to those house would become non-conforming, of course, because they prohibit the penetration. The regular FAR77 regulation we would be in the clear.

Charles McTee spoke away from microphone.

Rich Williams mine is just a follow up question. It gets back to the waiver, again. If we are going to actually give these property owners what they want and basically is appears that's what we are trying to do. It seems logical that if we are going to that point that a waiver from the city for them to sign would be reasonable. Trying to get yourself, at least, as insulated from a liability as you possibly could. I don't think that is too much to ask and I think it should be part of the thinking process if the city were to move ahead with this 2006-6 if that is what is going to be done now. Whatever one that you are moving ahead with.

Lind we are back to the Planning Commission and are we ready to vote. Is it time for the question?

Schaub question.

Lind all those in favor say "P". All voted in favor. All those opposed "no". Let the record show it was an unanimous vote. Moving on Mr. Kask that brings us to the situation where it is now time for the Chair of the Planning Commission to appoint a sub-committee to act with the aircraft owners and DOT. Is that right? And I would like to set a two person sub-committee myself being one person and I'd like to ask Mr. Frink or Mr. Valentine if they would please volunteer for that. Thank you Mr. Valentine. We have our sub-committee and as I understand it Mr. Bond will do the work of getting the organization of the owners and pilots and DOT set up the meeting and will contact the rest of us. And we will go forward from there. Any other actions that you need on this matter at this point in time? Mr. Kask? (answers away from microphone "no"). That brings us down to letters of appeal for Aviator Heights for the Eagles, etc. I think I will start out with Mr. Bond on those and then go to Mr. Hudson and the chair likes to move things along quickly.

Bond we did receive, I published a notice of determination in the Dispatch recently and we did receive letters of appeal. I just got back into town, today is my first day back from the break but, it appears we have two letters of appeal and possibly a third. However, I don't know how many of those appeals actually paid the appeal fee and we have to determine that. We are going to hear the appeals on next Monday's Town Council meeting. The only part of the Aviator Heights proposal which can be heard at this time is the variance which was granted. The actual development has not been approved. The only thing that available for appeal at this time is the variance to allow off site hangers in exchange for reduced lot size. So that is what we will be moving forward with on the next Monday's meeting.

Lind before Mr. Beach left town he and I had a little chat on Friday about the Eagles one. He's said that there are some things that are in that letter that in fact are not proper and correct and I hope Mr. Hudson is also listening and he was wondering if we as a body could say in fact that those things were not proper and correct so as we talk about appeals and so

on is there a place for the Planning Commission. Is there anything the Planning Commission as you see it or Mr. Hudson sees it to do. I will let Mr. Hudson speak when he gets his chance after you.

Bond I think I better defer this question to Mr. Hudson. I don't know the answer.

Hudson your talking about the letter from the Eagles is that correct? I only looked at the letter this afternoon when it came over from Mr. Bond. They clearly had, from what I understand in the letter, they had notice of the first hearing. What they have raised in the letter, which may be untrue or not, I can't address that. If Mr. Beach was here he might be able to help. They indicate or suggest that the original notice did not say anything about a possibility of a road going through property owned by the Eagles. That only subsequently was that put in and they were not aware until after the fact and therefore they are claiming they didn't receive proper notice. Now they say some other things in the letter that I don't believe are relevant because it is clear that they got the original notice. But if it is true that the issue with the road extension was not known to them at a point in time where they could respond and that caused them to learn after the fact. Actual the US Constitution comes in to play because when you property is being taken you have the right to do this.

Lind one moment here. There is no road going through their property. It is all on the property of the developer at this period in time.

Hudson apparently is a mistake in their letter as to fact and that makes a difference.

Lind I guess he is wondering is there is some way that fact can be gotten out of the Planning Commission or will you deal with that?

Hudson I will probably have to rely on Mr. Bond because I really don't know what the drawings and the title companies are showing or whoever is showing is to where the actual.

Lind so there is some coordination that need to be done. In a way you are defending the Planning Commission actions as this goes up which would be normal procedure, is that correct?

Hudson I would be but if there is a clear problem with a notice not being proper, I mean, we have to as a Planning Commission we have to recognize that too. But if it's a mistake in fact on their part that they have in there. In fact, the way that I read the letter that the only reason the letter may have been written because of a misunderstanding that on their part is to where the road was going.

Lind anything else you want to say about any of the other appeals. I know you haven't seen them for very long so you may not be to prepared.

Hudson the only other appeal I am aware of is the one with regard to the variance and the issue there was is that if they mixed, if the made a mistake and thought they were also appealing the preliminary plat. That invalidate their appeal and my advise is "no" you have to recognize that they did, also appeal the variance. There only problem is they can't argue

anything about the preliminary plat at Town Council only the variance because that is the only action that was taken by the Planning Commission that went on to the council.

Lind there is a third one that I will call Weyerhaeuser property owners on the Weyerhaeuser Road that seems to be talking about matters before the variance and plat came. Are you prepared to speak about that?

Hudson I'm not even prepared to address who wrote the appeal. I haven't seen that.

Lind I guess that is enough of a briefing on that and anybody on the Planning Commission want to say anything or ask any more questions? Public? Mr. Paranto would you please step to the microphone.

Arlen Paranto I'm a member of the Eagles and I am on the property planning committee and what the point of this discussion about the property is that there is a road shown on the center line of the Eatonville property. The center of the road is on the Eatonville property.

Lind the center line of the road is the property line?

Paranto the center line of the road is right smack down the middle of the Eatonville property.

Lind it is only showing the northern half of it being constructed at this point in time.

Paranto the northern half of what?

Lind of the road.

Paranto I'm not sure what's taken place at the present time. I'm just looking at the map that was approved at the Planning Commission meeting.

Lind and that was the action that took place, etc. at the point in time there was not other further action.

Paranto this was the map that was shown the Planning Commission approved.

Lind you see half a road.

Paranto half the road is on the Eatonville property.

Lind and it is not showing what is happening in the future on the other half of it. Right Mr. Bond?

Bond *speaks away from microphone.*

Paranto so the road will be different than what it shows on the map. That's what the Eagles was complaining about is that the road shows that they are taking up, I think, about 50 feet of the Eagles property with the right of way. The road plus the right of way.

Lind thank you Mr. Paranto. Other comments? I think we will move on. We have several letters regarding the Urban Growth Area on it and also Capital Improvements and these letters are part of our amendment to the Comprehensive Plan and under that plan those letters needed to be written and were prior to the end of the year and they now come in front of the Planning Commission and they guide us and allow us to continue with the update of the Comprehensive Plan and the Development Regulations and Mr. Kask would you take a minute or two to speak about that.

Kask our Comprehensive Plan in Chapter 5 lays out a annual amendment process. The annual amendment process requires that any proposed amendment be filed with the Town Clerk by December 31st and a number of letters were filed which Mr. Chairman has referenced in his remarks and those applications are now coming before the Planning Commission as a first stage of review, evaluation and if the Planning Commission finds it appropriate they will finalized as specific language or map amendments in the Comprehensive Plan there will be public hearings to that effect and when they are sight specific it would be a good policy to notify the property owners adjacent or those that would be effected by those kinds of amendments or changes. Then when that process has run it's course within the domain of the Planning Commission it goes up to the Town Council and they in turn would have a public hearing is they so desire. Their option is, also, to take the report directly from the Planning Commission and proceed to adopt it or deal with it. Then when that is done they become amended to the Comprehensive Plan and they would be labeled as 2007 amendments. The process also calls for a review by the State Department of Community Trade and Economic Development and that is often referenced as a 60 day review. A 60 day review happens between when the Planning Commission has filed their report and concluded their work. At that time the Town sends the Planning Commission report to the State Department of Community Trade and Economic Development and they have 60 days to comment on our proposed amendments. The list is not only the Community Development Department but includes Department of Ecology, Transportation, Health and Human Services and Natural Resources and the list goes on.

Lind is there a action that you suggest for tonight?

Kask no. It is not. The process is laid out in our Comprehensive Plan. The first true steps have taken place. The amendments have been filed with the Town Clerk, now they are in your hands and you need to proceed with it. Now there is one action and that is that we probably need to take the airport action ahead of the others for time considerations and if you.

Lind and we have that down under old business, set public hearing to deal with Grown Management Hearing Board. So that is the one action that we do have to take tonight?

Kask yes.

Public Hearing:

Lind then we can move on this unless there is any comment from the public or from the Planning Commission. Not hearing any we will move down to the Public Hearing,

continued, Single Family Design Requirements for New Single Family Residential Construction, Ordinance 2006-27. Mr. Bond.

Bond I'd like to start out we probably need to change this to 2007-01 as far as the ordinance title. This ordinance has come about is actually language entirely borrowed from the City of Gig Harbor and it pertains to Single Family Architectural Standards which serve primarily one purpose and I'll just give you a little history in terms of architectural design. In the 1950's housing styles changed tremendously as automobiles became a more important part of society and initially in the 50's you had rambler houses with one car garage and eventually two car garages. As we have gone through the decades garages have become a more dominant architectural feature, one looking at a single family residence, and it's not all single family residences, but it is many single family residences and today what you find a lot of times on some of the smaller lots are what is referred to as snub nose houses which have a very dominant garage door and very little emphasis on access for pedestrians, front porches and they have relatively little window glazing area relative to the size of the garage door and I think people, generally, find that that type of housing is less attractive. Gig Harbor about ten years ago came up with an ordinance which attempts to regulate and encourage somewhat more of a character for single family houses which contributes to a more positive feeling of a single family neighborhood and through various concerns that we have had we have had a kind of ongoing discussion since I came here about getting design standards in place and I think single family is an important place to get started. This ordinance effectively is here to allow a developer of a single family house to choose from one of six possible options with which they can de-emphasize the garages and architectural feature of the house. It is not to say that all houses which are built have really have dominant garages as part of their design but this will insure that even the most modest housing is still attractive and still fits in with the historical context of the Town of Eatonville and the historic core area of Eatonville. Continued on by reading the code Single Family Design Requirements for Single Family Residential Construction 2007-01.

Schaub *spoke away from microphone.*

Bond there is the possibility. I know when we look at the Michele Meadows Project which is going to be on the Old Mill Site we have the ability to require that the developer provide different housing types or he's going to turn and sell the lots to individual builders that they use a certain variety and distribution of housing types.

Frink you have to know where your location is at and you have a development here in town that's not going anywhere because it is over priced. You have lot sizes to think about and so in the Town of Eatonville there are certain house that can built that are economical to sell. If you over price your lots and you over price building the houses you won't move these in this town. This is a town that can have some variety for plans but if you look at Tacoma you have the old plats that go 25, 25, 25 and there still there. But there getting eaten up fast because now your seeing their going zero lot lines so there make those little square high houses. There is a reason why they are doing that, they are ugly. We want our town looking good but what I am getting at is that I don't think that we can specify a exactly that you have to do it this way, this way and you have seven different options. I think we need to see the visuals and then lets talk about it. I see all kinds and I know how they look and how the lot lines and how it can be put in and I have build some house. *Speaking away from microphone.*

Valentine *spoke away from microphone.*

Bond we have a provision in our code for rear set backs for alley loading houses and the IBC building code has provisions for detached garages which are different from living space. It is something that is compatible with building code and is a traditional planning technique that is coming back into the mainstream in terms of housing trends. Your maximizing the rear yards space by if you have to have the 8 foot set back you've got a garage which is going to be much more in the center of the yard and it's a much less desirable option. The IBC address that when your dealing with the detached garages but I will bring that to the next meeting as well.

Rich Williams I agree with Mr. Valentine and Mr. Schaub and Mr. Frink when I hear this kind of language it kind of reminds me a little bit of the Sign Ordinance that we are talking about. Everyone knows where I stand on that. I have a home in Olympia that has a 24 by 24 foot garage just for example. When you try to put appliances out there, like freezers and extra refrigerator and a work bench and what have you when we park the SUV in the garage you can't walk around it to get in the house because you right up against the freezer. All I'm trying to get at is that the practicality of what we are talking about needs to be explored. Maybe it 28 by 28, whatever but I don't think we want a builder selling a house to potential buyer that isn't functional. I think we want a beautiful town we want beautiful design but lets check into a little bit on the practicality of what we are talking about.

Mayor Smallwood I asked Nick and Nick and I agree upon this that we need some design guidelines for the town. That is what the intent of this is. We went around and we looked around and Gig Harbor has the most successful and this has been around 16 to 18 years and it has been very successful it took a long time for them to come up with this. Sumner has adapted basically the same style with variations of Gig Harbor and there are about 10 to 15 communities in the area that have done this that real intent and Nick will get some picture to show you. The real intent is not to have 15 houses out of 20 looking the same. And the real intent is to break up the houses and not decrease the value of the houses or increase the value of the houses but to basically just to have a little more variety instead of the two car garage below and the house up above and some places are like that and that's an economical home to build but it's not so much of an appealing home to look at. The Gig Harbor one is probably the best in the nation and it is recognized nation wide and that is why we are choosing that to start from. We are just trying to follow up from what people are telling us that we don't want cookie cutter houses in town. We are going to have cookie cutter houses because that is economical to build but maybe we can make them look a little different and make them have a little variety and that's the real intent of this ordinance. Maybe people won't like it maybe it won't go but we have got to try something to get a little better. I'll use Smith Acres as for example. That is fairly nice looking development. They are all a little different, they are all pretty nice but they are nice homes and there other ones where there are six next door to each other and the only difference is the paint color. And sometimes that's the same. We just want a little better looking town and that is the reason and the residential you want a place to start for design standards.

Bond the goal of design guidelines it to promote variety and character but this ordinance is about the character of the single family neighborhoods. It's not to add cost or value to the

house it's to add value to the community by making it a more desirable place to live and a pedestrian oriented community which has a community feel with neighborly interaction where you have a front porch which is usable and you have a welcoming home that has windows and whatnot creates an inviting environment which is going to make the community a more desirable place to live. That's really the goal.

Frink so what you are saying is that a builder comes to you and he wants to build in a certain area and your saying you have seven choices here.

Bond where not telling him that the housing plan has to be arranged a certain way.

Frink in other words saying you got to build rambler and then a two story.

Bond no we are not saying that and that. Right now we have a real shortage on build able lots. Hamner Springs is almost entirely built out. As far as single family lots which can't be subdivided any further there are relatively few of them in this community and we would like to see developers anticipate this type of regulation as they lay out their site design and try to make the development as livable as possible from the initial plan stages. It is not to penalize somebody that has a lot. Most of the lots have been build out as far as new subdivisions go.

Frink one of the things that most builders they have certain plan that really just sells. They can build it and it moves. It's a very desirable plan. So what your really saying is maybe the cosmetic, maybe put shutters on the house or something in front. Is that what your trying to get across.

Bond yes, and there are ways to tweak floor plans without having to redesign the plan to make it more visual desirable from the outside and make it conform to one of these. If you have a design that has a very pronounced front garage door the thing that you have to do with your design is not reconfigure the house it is add window area and do a little more emphasis on your front porch to make it a more attractive house.

Frink what is the square footage on an average lot? What are you seeing.

Bond SF2 is the most common at 8400 sq. feet.

Mike Jefferies I really agree with a lot of the reasoning what you are trying to accomplish. Particularly you have a developer coming in and building a bunch of houses that all look alike. I think it does look bad. It gets a little scary as an individual to say if I want to build a home in Eatonville how many restrictions are going to be placed on me. Do I have six designs that I can work from or could I do a Frank Lloyd Wright house or could I do something really creative and what I think makes really good use of that property. The only other considerations sometimes if you start pushing garages around to the back you create more driveway space and more reflected heat and various other things that you would be encourage to get away from now in developing. It's an effort in the right direction. When I think as an individual and rather than being a developer it gets a little scary as to how much is regulated and how much isn't regulated.

New Business: None

Old Business:

Lind set a public hearing to deal with the Growth Management Hearing Board Order, January 15, 2007. Mr. Kask a very brief.

Kask I would suggest you consider the March 5th, Monday.

Lind you would like this to be March the 5th?

Kask that would be the first Monday meeting date for the Planning Commission in February. By that time we should have worked through the committee as referred to. The airport operators, aircraft owners, property owners, state we should have something for the Planning Commission to look at by that time. After that it needs to proceed to the state and the council later on.

Lind do I hear a motion from the Planning Commission to set the public hearing for March the 5th.

Schaub so moved.

Lind for February the 5th.

Schaub so moved for February the 5th.

Lind I have a motion to set the public hearing for February the 5th do I have a second?

Frink second.

Lind o.k. I have a second. Any discussions? Not hearing any. All those in favor say "I". Opposed? Motion passed unanimously.

Lind which brings us down to Sign Ordinance and is the sub-committee ready to give a report on that, or where their at or not.

Bond we did have a meeting the middle of December and I have been working on creating a new draft and I think that we have made some real progress and some compromise on it. We are headed in the right direction it's just going to be a few, probably two weeks, before I can have a draft back to the sub-committee so that we can debate the merits.

Lind we are looking for the end of February? Is that what I'm hearing here?

Bond that maybe a reasonable expectation.

Lind hearing nothing more on that. Public comments on any other subjects?

Public Comment:

Rich Williams what I would like to recommend working with Nick on the new sign ordinance. We have had a lot of discussion on it. Mr. Valentine was there and I think that we came up with a tentative agreement. We haven't seen it in writing yet but it was a good meeting. To test the ordinance what I would like to do on a hypothetical to resubmit the Jebino's sign that everybody has talked about that kinda started this whole thing and just see how it would follow through the guideline of this ordinance to see if it would work or wouldn't work. That would give me a lot more confidence in the document. Nick spent a lot of time and hard work on it but the proof in the pudding is putting something through a test to see how it would fair.

Lind sub-committee can you deal with that? We'll let you deal with the sub-committee on it. Any other public comments. Not hearing any. We are down to commissioner comments.

Commissioner Comments:

Lind I have two items. The first one is that I would like a motion to change the next meeting from Monday, January 15th, which is a holiday to Tuesday, January 16th. Can I have a motion to change the next meeting to Tuesday, January 16th.

Schaub I move that we have our next meeting on Tuesday, January 16th.

Lind so moved. Is there a second?

Valentine second.

Lind any discussion? All those in favor. All were in favor. So done.

Lind the other announcement that I have publicly is I want to run a three month experiment where we will continue to get our paper minutes but I am going to have town hall send out the same electronically. I would like to work out any kinks that we may have and move to an electronic one for the Planning Commission because I find it to be much easier to deal with on filing and I think we would get it a little sooner that way and it's less work in town hall. You will be seeing both for awhile. Maybe by April we might be ready to move into an electronic version.

Next Meeting: January 16, 2007

MSC to Adjourn at 9:13 PM

PC Chairman, Steve Lind

PC Recorder, Karen T. Bennett

PC Secretary, Larry Frink